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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

A.J. OLIVER,

Plaintiff,

v.

MERVYN'S, LLC; SWEETWATER
SQUARE, LLC; AARDEMA
GRANDCHILDREN'S LP,

Defendants.

Case No. 08CV-1108 WQH (WMc)

Assigned for all purposes to
Honorable William Q. Hayes

**NOTICE OF JOINT MOTION AND
JOINT MOTION OF PLAINTIFF
A.J. OLIVER AND DEFENDANT
MERVYN'S, LLC TO EXTEND
TIME TO ANSWER OR MOVE TO
DISMISS; AND MEMORANDUM
OF POINTS AND AUTHORITIES
IN SUPPORT THEREOF**

TO THE CLERK OF THE SOUTHERN DISTRICT OF CALIFORNIA:

PLEASE TAKE NOTICE that plaintiff A.J. Oliver ("Plaintiff") and
defendant Mervyn's, LLC ("Mervyn's") hereby jointly move this Court for an order
extending the time to answer or move to dismiss Plaintiff's Complaint (the

1 “Complaint”). The Court has the authority to extend the time pursuant to Federal
 2 Rule of Civil Procedure 6(b) (“When by these rules . . . an act is required or
 3 allowed to be done at or within a specified time, the court for cause shown may at
 4 any time in its discretion . . . order the period enlarged if request therefore is made
 5 before the expiration of the period originally prescribed . . .”).

6 The parties have agreed that extending the time for Mervyn’s to respond to
 7 the Complaint will conserve the Court’s and the parties’ resources, and therefore
 8 believe that good cause exists for the Court to extend the time. According to the
 9 Complaint, defendants operate and maintain facilities of public accommodation,
 10 which Plaintiff alleges do not meet the requirements of the Americans with
 11 Disabilities Act (42 U.S.C. §§ 12101 *et seq.*) and related statutes regarding
 12 accessibility for disabled individuals. Due to the complexity of the allegations,
 13 Mervyn’s and its counsel require additional time to review the Complaint and
 14 prepare Mervyn’s response thereto. Plaintiff has agreed to extend Mervyn’s time to
 15 respond to the Complaint by seven days, to and including July 28, 2008. This is the
 16 first extension of time provided to Mervyn’s to respond to the Complaint, and the
 17 parties agree that this extension is not sought for the purpose of improper delay, and
 18 will not prejudice Plaintiff.

19 Accordingly, the parties believe that good cause exists for this Court to
 20 exercise its discretion to enlarge the time for Mervyn’s to respond to the Complaint.

21 **MEMORANDUM OF POINTS AND AUTHORITIES**

22 Plaintiff A.J. Oliver (“Plaintiff”) and defendant Mervyn’s, LLC
 23 (“Mervyn’s”) hereby jointly move this Court for an order extending the time to
 24 answer or move to dismiss Plaintiff’s Complaint (the “Complaint”).

25 **I.**

26 **INTRODUCTION**

27 Plaintiff filed the Complaint on June 23, 2008 against Mervyn’s and two
 28 other defendants. Mervyn’s was served the Complaint through its agent for service

1 of process by personal service on June 30, 2008. Mervyn's response to the
2 Complaint is due July 21, 2008. The parties have agreed that good cause exists for
3 the Court to extend time for Mervyn's to respond to the Complaint, as set forth
4 below.

5 II.

6 **GOOD CAUSE EXISTS FOR THE COURT TO EXTEND THE TIME FOR** 7 **MERVYN'S TO ANSWER OR MOVE TO DISMISS**

8 Pursuant to Federal Rule of Civil Procedure 6(b), this Court has the
9 discretion to extend the time for Mervyn's to respond to the Complaint. Fed. R.
10 Civ. P. 6(b) ("When by these rules . . . an act is required or allowed to be done at or
11 within a specified time, the court for cause shown may at any time in its discretion .
12 . . order the period enlarged if request therefore is made before the expiration of the
13 period originally prescribed . . ."). The parties have agreed that extending the time
14 for Mervyn's to respond to the Complaint will conserve the Court's and the parties'
15 resources, and therefore believe that good cause exists for the Court to extend the
16 time. According to the Complaint, defendants operate and maintain facilities of
17 public accommodation, which Plaintiff alleges do not meet the requirements of the
18 Americans with Disabilities Act (42 U.S.C. §§ 12101 *et seq.*) and related statutes
19 regarding accessibility for disabled individuals. Due to the complexity of the
20 allegations, Mervyn's and its counsel require additional time to review the
21 Complaint and prepare Mervyn's response thereto. Plaintiff has agreed to extend
22 Mervyn's time to respond to the Complaint by seven days, to and including July 28,
23 2008. This is the first extension of time provided to Mervyn's to respond to the
24 Complaint, and the parties agree that this extension is not sought for the purpose of
25 improper delay, and will not prejudice Plaintiff.

26 III.

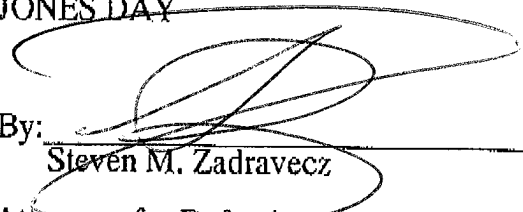
27 **CONCLUSION**

28 The parties have agreed that extending the time for Mervyn's to respond to

1 the Complaint will conserve the Court's and the parties' resources. The parties
2 therefore believe that good cause exists for the Court to exercise its discretion under
3 Rule 6(b) to extend the time to respond to the Complaint. Accordingly, the parties
4 jointly move this Court to extend the time.

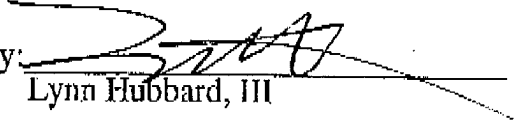
5 Dated: July 17, 2008

JONES DAY

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7
8 By: 
Steven M. Zdravetz
9 Attorneys for Defendant
10 MERVYN'S, LLC

11 Dated: July 17, 2008

12 DISABLED ADVOCACY GROUP,
13 APLC

14 By: 
15 Lynn Hubbard, III
16 Attorneys for Plaintiff
17 A.J. OLIVER

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